

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of:)
Jeffrey Fasnacht)
Serial No.: 10/614,616) Group Art Unit: 3643
Filed: July 7, 2003) Examiner: David J. Parsley
Title: POLYMERIC SPINNERBAIT)
LURE FRAME)

Mail Stop Non-Fee Amendment
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF JEFFREY FASNACHT
UNDER 37 C.F.R. § 1.131

I hereby declare as follows:

1. I am the inventor of U.S. Patent Application Serial No. 10/614,616 ("my application") directed to an improved spinnerbait lure. In the improvement of this invention, the lure has certain features that include a polymeric frame that can recover its original configuration after undergoing non-destructive bending and a jig embedded within the frame. My application was filed on July 7, 2003.

2. I was informed on July 2, 2004 that an unpublished application had been brought to the attention of the Examiner as a potential reference under 35 U.S.C. §102(e) upon publication. I was further informed that the effective date for this unpublished application as a reference under 35 U.S.C. §102(e) is the date that it was filed, i.e., December 19, 2002.

3. Prior to December 19, 2002, I had conceived and reduced to practice the invention claimed by my application. In support, I submit the specific facts set forth below and the

attached supporting documents that are identified herein and incorporated as part of this declaration.

4. Well prior to December 19, 2002, I had conceived and then reduced to practice a polymeric spinnerbait lure that satisfies each of the elements of the claims in my application. A true and correct copy of a drawing of a frame is marked as Exhibit A and attached and made a part of this declaration. Exhibit A has a redacted date prior to December 19, 2002. This drawing was prepared under my direction by Steve Fasnacht and discloses an integral frame with upper and lower arms extending divergently from a frame vertex. The drawing further shows an aperture for securing a blade to the frame and a jig embedded in the frame. In particular, the only difference between the frame shown in Exhibit A and frame 12 shown in the drawings included with my application is a particularly preferred jig-head disclosed in the application's drawings.

5. Prior to December 19, 2002, I had the frame in Exhibit A fabricated from polycarbonate, a material that allowed the frame to retain its original configuration following non-destructive flexing. This working prototype was within the scope of each of the claims of my application.

6. My developmental work leading up to the embodiment disclosed in Exhibit A had shown polycarbonate to be the preferred material. This is reflected in attached Exhibit B, consisting of a true and correct copy of a tooling-related invoice with the description "Fishing Lures of PC." Exhibit B has a redacted date prior to the redacted date of Exhibit A. The invoice in Exhibit B is from a tooling supplier whose name has been redacted for the preparation of tooling pursuant to my instruction. This tooling was needed to fabricate, through a plastic injection molding process, a polycarbonate frame having each and every characteristic of the independent claims in my application. "PC" in the description is an abbreviation for polycarbonate. Developmental prototypes of the frame claimed in my application were created with this tooling for additional functional testing of the lure performed under my direction.

7. A true and correct copy of a quotation from a tooling supplier whose name has been redacted is marked as Exhibit C and attached and made a part of this declaration. Exhibit C has a redacted date subsequent to the redacted date of Exhibit A and prior to December 19, 2002. The

quotation is for the design and construction of tooling having at least one cavity for the fabrication of the lure in Exhibit A using a plastic injection molding process. The quotation further discloses the anticipated cost per piece for production of the frame when a commercially acceptable embodiment had been decided upon.

8. A true and correct copy of an invoice from a redacted tooling supplier is marked as Exhibit D and attached and made a part of this declaration. Exhibit D has a redacted date subsequent to the redacted date of Exhibit C and prior to December 19, 2002. The invoice is for the tooling quoted in Exhibit C. Prior to December 19, 2002, this tooling was used to fabricate developmental prototypes of the polycarbonate frames having the features seen in Exhibit A. As indicated above at ¶ 5, these working prototypes satisfied each of the claims of my application.

9. I hereby declare that all statements made herein of my own knowledge are true. I further declare that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of my application or any patent issuing thereon.

By: Jeffrey L. Fasnacht
Jeffrey Fasnacht

Dated: 7/9/04

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, ALEXANDRIA, VA 22313-1450 on August 16, 2004.

Judith Maresh
Name

Judith Maresh 8-16-04
Signature Date

BEST AVAILABLE COPY



St. James

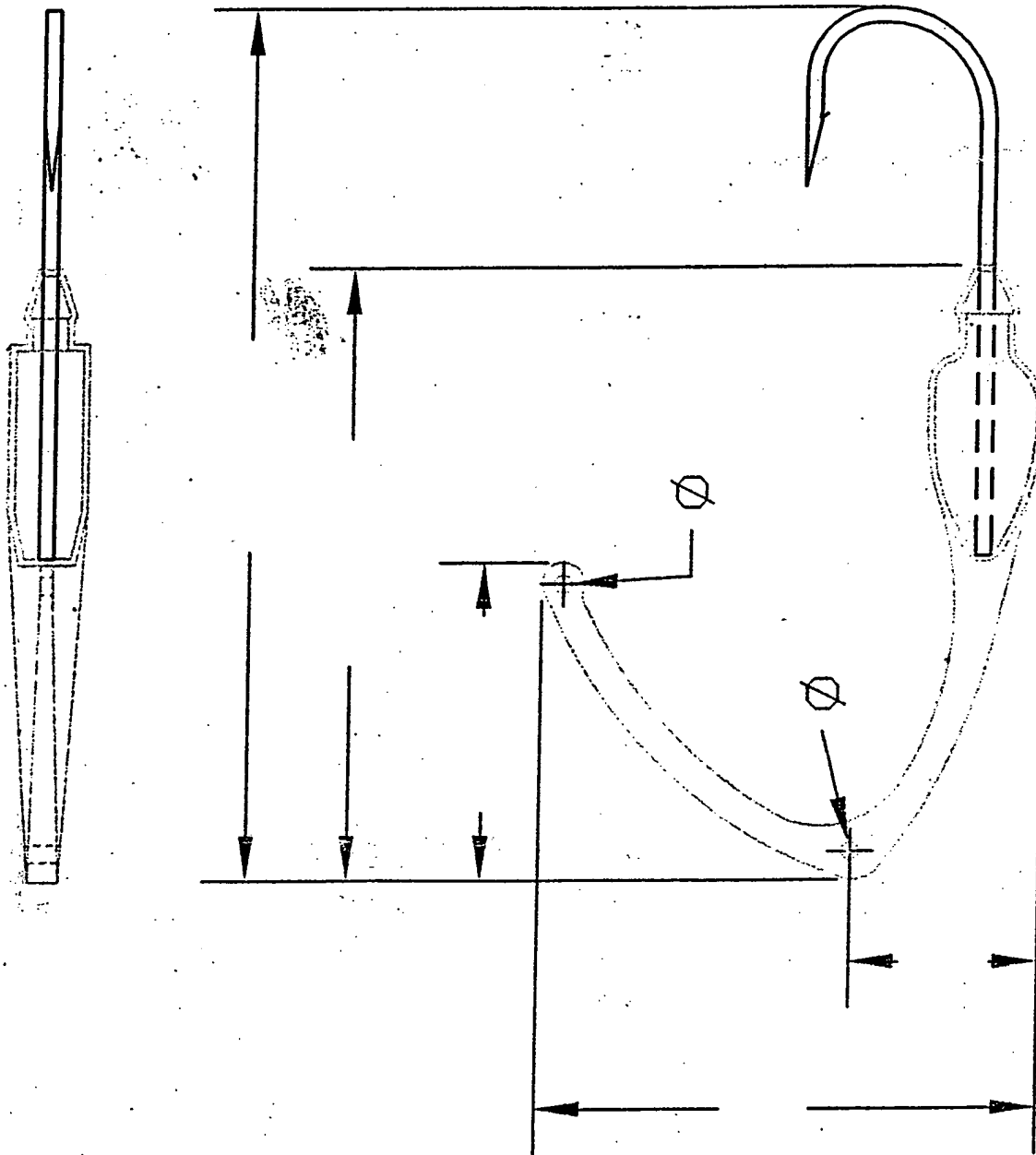


EXHIBIT
A

Please Rem To:

Phone:

Hanover, IN 47243

FAX:

Cincinnati, OH 45263-

Invoice

INVOICE NO.

INVOICE DATE

ACCOUNT NO.

5000

SHIPPED TO:

S
O
L
D
T
OS & J MFG.
712 E. CHRISTY
GREENSBURG IN 47240

YOUR ORDER NO.	SLSMN NO	TERMS	SHIPPED VIA	SPECIAL INSTRUCTIONS
VERBAL		NET30	UPS RED	
ITEM NUMBER	QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
		FISHING LURES OF PC		.00
THANK YOU VERY MUCH FOR YOUR BUSINESS!				TOTAL: .00
				TAX: 0.00
				PLEASE PAY: .00

EXHIBIT

B

P.O. Box
Columbus, Indiana 47201

ISO 9002:
QS-9000:

All Star Orthodontics
Attn: Jeff & Steve Fasnacht
4920 N Warren Drive
Columbus, IN 47203

Dear Jeff,

Quote:

Design and build a one-cavity lure mold, with enough room to build additional cavities.

Delivery - 3 weeks

Price - \$

Production:

Piece price on lure mold.

Price - \$.. per piece

Sincerely,


Andrew Counciller

EXHIBIT

C

TOMORROW'S COMPETITIVE EDGE TODAY

Consultants - Designers - Manufacturers
Metal Stampings - Fabrication - Contract Machining - Plastic Injection Molding

Invoice

COLUMBUS IN 47202

DATE	INVOICE #

BILL TO
S&J MFG, L.L.C. 712 E. CHRISTY LN. GREENSBURG IN 47240

SHIP TO
S&J MFG, L.L.C. 712 E. CHRISTY LN. GREENSBURG IN 47240

P.O. NUMBER	TERMS	DUE DATE	SHIP	VIA	LINE ITEM	REL. NUMBER
WRITTEN JEFF	Net 30					
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
1	TOOLING	PLASTIC				